



NINTEX END USER LICENSE AGREEMENT

This Nintex End User License Agreement (“Agreement”) is between Nintex and the customer (individual or entity) that has purchased a license for the Nintex Software (“Customer”). “Nintex” means the Nintex affiliate designated on the applicable Order Form. If you are an individual using the Nintex Software on behalf of a corporation, partnership, or other entity, than that entity will be the Customer, and you represent and warrant that you are authorized to enter into this Agreement. Each Nintex and Customer is a “Party” and together they are the “Parties.”

IMPORTANT: BY INSTALLING OR USING ANY PORTION OF THE SOFTWARE, CUSTOMER IS ACCEPTING ALL OF THE TERMS AND CONDITIONS OF THIS AGREEMENT. IF CUSTOMER DOES NOT AGREE TO THE TERMS AND CONDITIONS, CUSTOMER MAY NOT INSTALL OR USE THE SOFTWARE.

1. Grant of License

1.1 In consideration of payment of the License Fee, Nintex grants Customer the Software License, subject to all of the terms and conditions of this Agreement. This license continues until terminated in accordance with this Agreement.

1.2 Customer is entitled to install the Software on one (1) computer or server only, for the sole purpose of using the Software. Customer may make one (1) copy only of the Software for back-up purposes. That copy must contain all Nintex proprietary notices. If Customer upgrades the Software, Customer may no longer use the previous version from which the Software was upgraded.

1.3 In the event that Nintex makes available to Customer a software upgrade or update, add-on component, web service and/or supplement (whether in conjunction with providing Support or otherwise), the terms of this Agreement shall apply.

2. Warranties

2.1 Nintex Warranties. The Software has not been written to meet Customer’s individual requirements and is supplied on an “as is” basis. A failure of any part or the whole of the Software to be suitable for Customer’s requirements will not give rise to any right or claim against Nintex. Nintex’s sole warranties in connection with the Software are that: (a) it will work substantially in the manner described in the Software Documentation for a period of thirty (30) days from the first day the Software is first installed; and (b) it does not infringe the IP of any person.

2.2 Remedy for Breach of Warranties. Customer’s sole remedy for any breach of the warranties in **clause 2.1** is that Nintex must, at its option, either: (a) modify the Software; or (b) replace the Software with software of substantially similar functionality, so as to correct any defect or to render

use of the Software non infringing (as the case may be) PROVIDED THAT the identified defect or infringement has not been caused by: (x) any modification, variation or addition to the Software not performed by Nintex; (y) incorrect use, abuse or corruption of the Software; or (z) the use of the Software with other software or on equipment with which it is incompatible. Customer must provide sufficient information about any defect to enable Nintex to reproduce it on Nintex’s systems.

2.3 Customer’s Acknowledgement. Customer acknowledges that the Software in general is not free of errors or defects and agree that the existence of any errors or defects will not constitute a breach of this Agreement.

2.4 Viruses. Nintex does not warrant that the Software is free from all known viruses. Although Nintex has used commercially reasonable efforts to check for the most commonly known viruses, Customer is solely responsible for virus scanning the Software.

3. Confidentiality

3.1 Definition of Confidential Information. “Confidential Information” means all information disclosed by a party (“Disclosing Party”) to the other party (“Receiving Party”), whether orally or in writing, in connection with Software, that is designated as confidential or that reasonably should be understood by the Receiving Party to be confidential given the nature of the information and the circumstances of disclosure. Nintex Confidential Information includes the Software and Software Documentation. Confidential Information of each Party includes code, business and marketing plans, financial information, technology and technical information, inventions, know-how, product plans and designs, and business processes disclosed by such Party. However, Confidential Information does not include any

information that (a) is or becomes generally known to the public without breach of any obligation owed to the Disclosing Party, (b) was known to the Receiving Party prior to its disclosure by the Disclosing Party without breach of any obligation owed to the Disclosing Party, (c) is received from a third party without breach of any obligation owed to the Disclosing Party, or (d) was independently developed by the Receiving Party.

3.2 Confidentiality Obligations. Customer acknowledges that the ideas and expressions contained in the Software and any modifications or particulars of those ideas and expressions that may be provided to Customer by Nintex are confidential (except to the extent that such information has entered the public domain other than through a breach of this Agreement by Customer). Customer undertakes not to disclose this Confidential Information to any person other than its agents and employees and then only to enable the Software to be used in accordance with and for the purposes of this Agreement. Customer must ensure that these persons maintain this confidentiality.

3.3 Copyright and Confidentiality Notices. Customer must not remove, delete or obscure any copyright notices or confidentiality notices on or in the Software.

4. Support

Nintex will provide Customer with Support in accordance with the Support Documentation or a separate agreement between the Parties.

5. Intellectual Property (IP)

5.1 Rights in IP. Customer acknowledges that Customer obtains no IP in the Software or the Support. As between the Parties, all IP in the Software and the Support vests in Nintex.

5.2 Impermissible Actions. Customer shall not, except to the extent, if any, permitted by any law: (a) copy, modify, enhance or reproduce any part of the Software, in whole or in part (other than in accordance with **clause 1.2**) or create a derivative work of any part of the Software; (b) decompile, disassemble, or otherwise reverse engineer the Software or attempt to reconstruct or discover any source code, underlying ideas, algorithms, file formats or programming interfaces of the Software by any means whatsoever; (c) incorporate, embed, combine, merge or bundle the Software with any other hardware or software (except to the extent strictly necessary to use the Software in accordance with its intended purpose and these terms); (d) publically disseminate performance information or analysis from any source relating to the Software; (e) use the Software to develop a product which is competitive with any Nintex product offerings; or (f) directly or indirectly permit any third party to do any of the above.

5.3 IP Obligations. If Customer becomes aware of any infringements or suspected infringements by any third party of any IP in the Software or Support, Customer must immediately notify Nintex. Customer must at Nintex's request and expense take any action as Nintex reasonably deems is appropriate to protect its IP.

6. Termination

6.1 Termination. Nintex may terminate this Agreement immediately by notice if Customer breaches this Agreement and fails to remedy the breach within fourteen (14) days of becoming aware of the breach.

6.2 Effect of Termination. On termination of this Agreement, Customer must immediately cease to use the Software and, if possible, return the Software (and all copies) to Nintex. Where the Software cannot be returned, Customer must permanently delete or destroy the Software and provide to Nintex a declaration that Customer has complied with this **clause 6.2**. This requirement is without prejudice to any other rights and remedies that Nintex may have in respect of the breach. **Clauses 3, 5, 7, 8 and 9** survive the expiry or termination of this Agreement. **Clause 3.1** expires three (3) years after the date of termination or expiry of this Agreement.

7. Taxes and Export Restrictions

7.1 Unless expressly stated to the contrary, all fees, costs and charges referred to in this Agreement are exclusive of all taxes, duties and imposts.

7.2 If Nintex is or will be liable for any taxes, duties or imposts (including goods and services tax or value added tax) on or relating to this Agreement or anything done pursuant to this Agreement (excluding income tax) then Customer must pay Nintex an amount equal to that liability at the time that Customer pays any fees, costs or charges to which the liability relates.

7.3 Export Compliance. The Software and other technology Nintex makes available, and derivatives thereof may be subject to export laws and regulations of the United States and other jurisdictions. Customer represents that it is not named on any U.S. government denied-party list. Customer shall not, and shall not allow any third party to, export from the United States or allow the re-export or re-transfer of any part of the Software in a U.S.-embargoed country (currently Cuba, Iran, North Korea, Sudan, or Syria) or in violation of any U.S. export law or regulation, or any export or import laws, regulations, or requirements of any United States or foreign agency or authority.

8. LIMITATION OF LIABILITY

8.1 IN NO EVENT WILL NINTEX BE LIABLE TO CUSTOMER OR ANY OTHER PERSON FOR ANY LOST PROFITS, LOST SAVINGS, DELETION OR CORRUPTION OF ELECTRONICALLY STORED INFORMATION, LOST DATA, OR OTHER SPECIAL, DIRECT, INDIRECT, PUNITIVE, CONSEQUENTIAL, OR INCIDENTAL DAMAGES ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY SOFTWARE, SUPPORT OR OTHER PRODUCTS OR SERVICES FURNISHED OR TO BE FURNISHED UNDER THIS AGREEMENT OR THE USE THEREOF, EVEN IF NINTEX HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGE.

8.2 NINTEX'S AGGREGATE LIABILITY UPON ANY CLAIMS HOWSOEVER ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY SOFTWARE, SUPPORT OR OTHER PRODUCTS OR SERVICES FURNISHED OR TO BE FURNISHED BY NINTEX UNDER THIS AGREEMENT WILL IN ANY EVENT BE ABSOLUTELY LIMITED TO THE AMOUNT PAID BY CUSTOMER TO NINTEX UNDER THIS AGREEMENT FOR THE APPLICABLE SOFTWARE, SUPPORT OR OTHER PRODUCTS OR SERVICES.

8.3 NINTEX ACKNOWLEDGES THAT IT HAS SET ITS PRICES AND ENTERED INTO THIS AGREEMENT IN RELIANCE UPON THE WARRANTIES, DISCLAIMERS AND LIMITATION OF LIABILITY SET OUT IN THIS AGREEMENT, AND THAT THESE FORM AN ESSENTIAL BASIS OF THE BARGAIN REACHED BETWEEN THE PARTIES. THE PARTIES AGREE THAT THE LIMITATIONS OF LIABILITY SPECIFIED IN THIS **CLAUSE 8** WILL SURVIVE AND APPLY EVEN IF ANY CLAUSE IS FOUND TO HAVE FAILED ITS ESSENTIAL PURPOSE. NOTWITHSTANDING THIS, NOTHING CONTAINED IN THIS AGREEMENT WILL LIMIT NINTEX'S LIABILITY FOR ITS OWN WILLFUL OR WANTON CONDUCT.

8.4 NINTEX MAKES NO WARRANTY OR REPRESENTATION TO CUSTOMER AS TO THE PERFORMANCE OR OPERATION OF THE SOFTWARE, SUPPORT OR ANY OTHER PRODUCTS OR SERVICES EXCEPT AS PROVIDED IN **CLAUSE 2.1**. NINTEX MAKES NO OTHER WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO NINTEX, THE SOFTWARE, SUPPORT OR OTHER PRODUCTS OR SERVICES PROVIDED BY NINTEX AND, SUBJECT TO THIS CLAUSE, ANY CONDITION OR WARRANTY WHICH WOULD OTHERWISE BE IMPLIED IN THIS AGREEMENT IS HEREBY EXCLUDED. WHERE LEGISLATION IMPLIES IN THIS AGREEMENT ANY CONDITION OR WARRANTY, AND THAT LEGISLATION AVOIDS OR PROHIBITS PROVISIONS IN A CONTRACT EXCLUDING OR MODIFYING THE APPLICATION OF OR EXERCISE OF OR LIABILITY UNDER SUCH

CONDITION OR WARRANTY, THAT CONDITION OR WARRANTY WILL BE DEEMED TO BE INCLUDED IN THIS AGREEMENT. HOWEVER, NINTEX'S LIABILITY FOR ANY BREACH OF SUCH CONDITION OR WARRANTY WILL BE LIMITED, AT ITS OPTION, TO ONE OR MORE OF THE FOLLOWING: (A) IF THE BREACH RELATES TO GOODS: (I) THE REPLACEMENT OF THE GOODS OR THE SUPPLY OF EQUIVALENT GOODS; (II) THE REPAIR OF SUCH GOODS; (III) THE PAYMENT OF THE COST OF REPLACING THE GOODS OR OF ACQUIRING EQUIVALENT GOODS; OR (IV) THE PAYMENT OF THE COST OF HAVING THE GOODS REPAIRED; AND (B) IF THE BREACH RELATES TO SERVICES: (I) THE SUPPLYING OF THE SERVICES AGAIN; OR (II) THE PAYMENT OF THE COST OF HAVING THE SERVICES SUPPLIED AGAIN.

8.5 DESPITE ANY OTHER PROVISION IN THIS AGREEMENT, NINTEX DOES NOT EXCLUDE LIABILITY FOR DEATH OR PERSONAL INJURY TO THE EXTENT THAT THE SAME ARISES DIRECTLY FROM ITS NEGLIGENCE OR THE NEGLIGENCE OF ITS EMPLOYEES.

9. Mutual Indemnification

9.1 Nintex Indemnification. Nintex will defend Customer from and against any claim by a third party alleging that the Software, when used as authorized in this Agreement, infringes a U.S. patent, U.S. copyright, or U.S. trademark and shall indemnify and hold Customer harmless from and against any damages and costs (including reasonable attorneys' fees) actually awarded against Customer or agreed to by Nintex in settlement resulting from such claim, provided that Nintex shall have received from Customer: (a) prompt written notice of such claim (but in any event notice in sufficient time for Nintex to respond without prejudice); (b) the sole and exclusive right to control and direct the investigation, defense, and settlement (if applicable) of such claim; and (c) all reasonably necessary cooperation, at Nintex's cost, from Customer. If Customer's use of the Software is (or in Nintex's opinion is likely to be) enjoined, if required by settlement or if Nintex determines such actions are reasonably necessary for Customer to avoid material liability, Nintex may, in its sole discretion, substitute for the Software substantially functionally similar programs and documentation or otherwise procure for Customer the right to continue using the Software. The obligations in this **section 9.1** shall not apply: (u) if the Software is modified by any party other than Nintex, but solely to the extent the alleged infringement is caused by such modification; (v) if the Software is combined with products or processes not provided or authorized by Nintex, but solely to the extent the alleged infringement is caused by such combination; (w) to any unauthorized use of the Software; (x) to any

unsupported release of the Software; (y) to any third party code contained within the Software; or (z) if Customer settles or makes any admissions with respect to a claim without prior written consent from Nintex. **THIS SECTION 9.1 SETS FORTH NINTEX'S SOLE LIABILITY AND CUSTOMER'S SOLE AND EXCLUSIVE REMEDY WITH RESPECT TO ANY CLAIM OF INTELLECTUAL PROPERTY INFRINGEMENT.**

9.2 Indemnification by Customer. Customer will defend, indemnify, and hold Nintex harmless from any claims made or brought by a third party: (a) based upon breach of this Agreement by Customer, its employees and its users resulting in the disclosure of Confidential Information, as defined in **section 3.1**; (b) alleging that the Customer Content infringes the rights of, or has caused harm to a third party; or (c) in connection with a claim arising from use of the Software in breach of this Agreement by Customer or its employees; provided, however, that Customer has received from Nintex: (x) prompt written notice of such claim (but in any event notice in sufficient time for Customer to respond without prejudice); (y) the sole and exclusive right to control and direct the investigation, defense, and settlement (if applicable) of such claim (provided that Customer may not settle any claim unless such settlement unconditionally releases Nintex of all liability); and (z) all reasonably necessary cooperation (at Customer's cost) from Nintex.

10. General

10.1 Entire Agreement. This Agreement constitutes the entire agreement between the Parties as to its subject matter and supersedes all prior communications in connection with that subject matter. No modification, amendment, or waiver of any provision of this Agreement will be effective unless in writing and signed by both Parties. The Parties acknowledge that, except as expressly stated in this Agreement, they have not relied on any representation, warranty or undertaking of any kind made by or on behalf of the other Party in relation to this Agreement.

10.2 Authorization. Each Party warrants that it has the authority, power and capability to enter into and to perform its obligations under this Agreement and that its obligations under this Agreement are binding and enforceable.

10.3 Force Majeure. Neither Party will be liable for any failure to perform its obligations under this Agreement (other than an obligation to pay money) if the Party is prevented from doing so by any cause beyond its reasonable control.

10.4 Severability. Each term of this Agreement must be interpreted in such manner as to be effective and valid under applicable law. If any term of this Agreement is held to be prohibited by or invalid under

applicable law, that term is ineffective only to the extent of such prohibition or invalidity, without invalidating the remainder of this Agreement.

10.5 Waiver. A term of this Agreement may not be waived except in writing signed by the Party granting the waiver. The waiver by a Party of a breach by another Party of any term of this Agreement does not operate as a waiver of another or continuing breach by that Party of that term or any other term of this Agreement.

10.6 Assignment. Customer must not assign or novate any of Customer's rights or obligations under this Agreement without Nintex's prior written consent (which Nintex may withhold in its absolute discretion). Nintex may assign or novate any of its rights or obligations under this Agreement to any person by notice to Customer.

10.7 Choice of Law and Jurisdiction. Excluding conflict of laws rules, this Agreement shall be governed by and construed under (a) the laws of the State of Washington, U.S. if Customer is located in North or South America, (b) the laws of the state of Victoria, Australia if Customer is located in Asia or Australia, or (c) the laws of England and Wales if Customer is located outside of North or South America, Asia and Australia. All disputes arising out of or in relation to this Agreement shall be submitted to the exclusive jurisdiction of the courts of (i) Seattle, Washington when the laws of Washington apply, (ii) Melbourne when the laws of Australia apply, or (iii) London when the laws of England and Wales apply. Nothing in this section shall restrict Nintex's right to bring an action (including for example a motion for injunctive relief) against Customer in the jurisdiction where Customer's place of business is located. The United Nations Convention on Contracts for the International Sale of Goods and the Uniform Computer Information Transactions Act, as currently enacted by any jurisdiction or as may be codified or amended from time to time by any jurisdiction, do not apply to this Agreement.

11. Definitions

"Affiliate(s)" mean(s), with respect to either Party, any individuals, companies, corporations, partnerships or other entities, directly or indirectly, controlling, controlled by, or under common control with, such party.

"Customer Content" means the business information or other data used by Customer in connection with the Software.

"Intellectual Property" (or IP) means:

(a) patents, trademarks, services marks, design rights (whether registered or unregistered and including any applications for these rights);

(b) copyright (including future copyright) throughout the world in all literary works, artistic works, computer software, and any other works or subject matter in which copyright subsists and may in the future subsist;

(c) trade or business names; and

(d) know-how, Confidential Information and trade secrets, and any other similar rights or obligations whether registrable or not in any country.

“**License Fee**” means the relevant license fee for the Software.

“**Material**” means material in any form, including documents, reports, products, equipment, information, data, source code, software, software tools, and methodologies.

“**Software**” means Nintex’s software product and includes the Software Documentation and all other associated Material provided by Nintex in relation to that software.

“**Software Documentation**” means any documentation provided by Nintex which is incorporated in or associated with software.

“**Software License**” means a non-exclusive, non-transferable license to use the Software in accordance with this Agreement.

“**Support**” means the support, assurance, new releases and related maintenance services for the Software described in the Support Documentation and includes the Support Documentation and all other associated Material provided by Nintex in relation to that support.

“**Support Documentation**” means any documentation provided by Nintex which is incorporated in or associated with Support.



NINTEX ENTERPRISE-WIDE SUBSCRIPTION AGREEMENT

This Nintex Enterprise-Wide Subscription Agreement (“Agreement”) is between Nintex and the customer that has purchased an Enterprise-Wide Subscription to the Service (“Customer”). “Nintex” means the Nintex affiliate designated on the applicable Order Form (as defined below). If you are an individual using the Service on behalf of a corporation, partnership, or other entity, then that entity will be the Customer, and you represent and warrant that you are authorized to enter into this Agreement on behalf of such entity and bind such entity to the terms and conditions of this Agreement. Each of Nintex and Customer is a “Party” and together they are the “Parties.”

This Agreement applies only to the Service listed in the applicable Order Form or any amendment thereto. Nintex reserves the right to make other Nintex software or services available under separate agreements. This Agreement includes any and all attachments and referenced policies, including without limitation the Nintex Subscription Support Policy, the Nintex Customer Use Policy, and the Order Form entered into between the Parties.

Customers are responsible for maintaining active licenses and complying with all applicable agreements for all Connected Services and Workflow Environments. Customers deploying Nintex Workflow and/or Forms by way of Microsoft Office 365 shall maintain an active Microsoft Office 365 subscription containing SharePoint Online with support for the Workflow Manager.

From time to time, Nintex may modify this Agreement. Unless otherwise specified by Nintex, changes become effective for existing subscription Customers upon renewal of the then-current Subscription Term. Customer may be required to click to accept the modified Agreement before using the Service in a Renewal Subscription Term, and in any event, continued use of the Service during the Renewal Subscription Term will constitute Customer’s acceptance of the version of the Agreement in effect at the time the Renewal Subscription Term begins.

IMPORTANT: IF CUSTOMER DOES NOT AGREE TO THE TERMS AND CONDITIONS, CUSTOMER MAY NOT ACCESS OR USE THE SERVICE. BY CHECKING THE ACCEPTANCE BOX OR INSTALLING OR USING ANY PORTION OF THE SERVICE, CUSTOMER IS ACCEPTING ALL OF THE TERMS AND CONDITIONS OF THIS AGREEMENT.

1. Service Subscription

1.1 Provision of Service. The Service is provided by Nintex on a subscription basis for a set term designated herein or in the applicable Order Form. The Service may be delivered to Customer: (a) as software to be installed on Customer’s designated on-premises server; (b) for integration with Customer’s Workflow Environments, and/or (c) as an online service, as designated in the applicable Order Form.

1.2 Trial Access. If Nintex has made available to Customer free, trial, or evaluation access to the Service (“**Trial Access**”), such access is limited to evaluating the Service to determine whether to purchase a subscription from Nintex. Customer may not use Trial Access for any other purposes, including but not limited to competitive analysis, commercial, professional, or for-profit purposes. Nintex has the right to terminate Trial Access at any time. Unless Customer purchases a subscription for the Service, upon any such termination or expiration Customer’s

Trial Access will cease. If Customer purchases a subscription to the Service, all of the terms and conditions in this Agreement will apply to such purchase and the use of the Service. **NOTWITHSTANDING ANYTHING IN THIS AGREEMENT TO THE CONTRARY, NINTEX WILL HAVE NO WARRANTY, INDEMNITY, SUPPORT, OR OTHER OBLIGATIONS WITH RESPECT TO TRIAL ACCESS.**

1.3 License to Use the Service. Nintex owns all rights, title and interest in and to the Service. Nintex hereby grants Customer a non-exclusive, non-transferable, right to access and use the Workflow Service, solely for its own internal business purposes during the Subscription Term, subject to the terms and conditions of this Agreement and any restrictions and limitations designated in the applicable Order Form. Subject to the limited rights expressly granted hereunder, Nintex reserves all rights, title, and interest in and to the Service, including all related Intellectual Property Rights. No rights are granted to Customer hereunder other than as expressly set forth herein.

1.4 Restrictions. Customer must not (a) modify, copy or create any derivative works based on the Service; (b) license, sublicense, sell, resell, rent, lease, transfer, assign, distribute, time share, offer in a service bureau, or otherwise make the Service available to any third party; (c) frame or mirror any content forming part of the Service, other than on Customer's own intranet for Customer internal business purposes as permitted in this Agreement; (d) use the Service to store or transmit infringing, libelous, or otherwise unlawful or tortious material, or to store or transmit material in violation of third-party privacy rights, (e) use the Service to store or transmit Harmful Code, (f) interfere with or disrupt the integrity or performance of the Service, (g) attempt to gain unauthorized access to the Service or its related systems or networks, (h) permit direct or indirect access to or use of the Service in a way that circumvents a contractual usage limit, (i) reverse engineer or decompile any portion of the Service, including but not limited to, any software utilized by Nintex in the provision of the Service, except to the extent required by applicable law; (j) access the Service in order to build any commercially available product or Service or otherwise commercially exploit the Service; or (k) copy any features, functions, integrations, interfaces, or graphics of the Service. Customer's use of the Service is subject to the Nintex Customer Use Policy, available at <http://www.nintex.com/legal>.

1.5 Support. During the Term, Nintex will provide Support in accordance with the Nintex Subscription Support Policy, available at <http://www.nintex.com/legal> and the applicable Support Documentation. Support is subject to the terms of this Agreement, the Order Form, and the Nintex Subscription Support Policy.

2. USE OF THE SERVICE

2.1 Employee Plan. The Service is provided to Customer according to the Employee Plan and any other limitations set forth in the Order Form. Customer shall limit use of and access to the Service to its Employees. Customer may increase the Employee Plan at any time during the term of the Agreement by notifying Nintex in writing and executing an additional Order Form. If Customer's Employees exceed the Employee Plan, Nintex may: (a) suspend Customer's access to the Service to the extent reasonably necessary, and (b) request Customer execute an Order Form for additional Employees at the per Employee price set forth in the applicable Order Form (each, an "Overage Order Form"). Each Overage Order Form will have a subscription period coterminous with the applicable Initial or Renewal Subscription Term. Customer's failure to execute an Overage Order Form within thirty (30) days of notification by Nintex shall constitute a material breach of this Agreement.

2.2 Customer Responsibilities and Customer Content. Customer will use the Service solely for its internal business purposes and not for the benefit of any third parties. Customer will (a) be responsible for Users' compliance with this Agreement, (b) be responsible for the accuracy, quality, appropriateness, and legality of any Customer data or other business information ("Customer Content") used in the Service, (c) use commercially reasonable efforts to prevent unauthorized access to or use of the Service, and notify Nintex promptly of any such unauthorized access or use, and (d) use the Service only in accordance with the terms of this Agreement and applicable laws and government regulations. Customer grants Nintex a worldwide, non-exclusive, royalty-free right and license to host, transfer, display, perform, reproduce, modify, and distribute Customer Content, in whole or in part, in any media formats and through any media channels (now known or hereafter developed) but only for the sole purpose of providing the Service to Customer and addressing any service or technical problems.

2.3 Nintex Responsibilities. Nintex shall implement commercially reasonable and appropriate technical and organizational measures to secure availability, confidentiality and integrity with respect to the Service and other Customer Content and information. However, unless explicitly otherwise agreed in writing between Parties, the Service is provided on an "as is" and "as available" basis. The Service may be subject to limitations, delays, and other problems inherent in the use of the internet and electronic communications. Nintex is not responsible for any delays, delivery failures, or other damage resulting from such problems. Nintex shall retain the right to collect usage telemetry and other statistics from the Service to be used to monitor compliance with applicable usage limits, and for diagnostic, operational, performance, and product improvement purposes.

2.4 Retention of Certain Content and Applications. During the Subscription Term, Nintex shall retain any electronic content submitted by or for Customer to the Nintex App Studio service for use in building mobile workflow applications (collectively, the "Submitted Content"). Nintex is not responsible or liable for the deletion, correction, destruction, damage, or loss of any Submitted Content. Upon termination of the Subscription Term, Nintex reserves the right to delete any Submitted Content.

3. FEES AND PAYMENT

3.1 Fees. Customer must pay all fees specified in all Order Forms. Except as otherwise stated in an Order Form, all fees are quoted and payable in U.S. dollars and are based on Service rights acquired and not actual usage. Except as otherwise stated in an Order Form or as provided herein, payments must be made on an annual basis in advance.

3.2 Non-cancelable and non-refundable. All payment obligations under any and all Order Forms are

non-cancelable and all payments made are non-refundable. The license rights for the usage quantities set forth on any respective Order Form cannot be decreased during the Initial Term.

3.3 Invoicing and Payment. Fees for the Service will be invoiced in accordance with the relevant Order Form. The first year's Subscription Fees, as specified in each Order Form, are due and payable upon Customer's execution of such Order Form. All other fees due hereunder (except fees subject to good faith dispute) will be due and payable within thirty (30) days of invoice date. Customer will provide Nintex with complete and accurate billing and contact information.

3.4 Overdue Payments. Any payment not received from Customer by the due date may accrue (except with respect to charges then under reasonable and good faith dispute), at Nintex's discretion, late charges at the rate of 0.5% of the outstanding balance per month, or the maximum rate permitted by law, whichever is lower, from the date such payment was due until the date paid.

3.5 Non-Payment and Suspension of Service. If Customer's account is more than thirty (30) days past due (except with respect to charges subject to a reasonable and good faith dispute), in addition to any other rights or remedies it may have under this Agreement or by law, Nintex reserves the right to suspend the Service upon thirty (30) days written notice, without liability to Customer, until such amounts are paid in full.

3.6 Taxes. Except as otherwise stated in an Order Form, Nintex's fees do not include any direct or indirect local, state, federal or foreign taxes, levies, duties, or similar governmental assessments of any nature, including value-added, excise, use, or withholding taxes (collectively, "Taxes"). Customer is responsible for paying all Taxes associated with its acquisitions hereunder, this Agreement, and the Service, excluding U.S. income taxes on Nintex. If Customer has an obligation to withhold any amounts under any law or tax regime (other than U.S. income tax law), Customer will gross up the payments so that Nintex receives the amount actually quoted and invoiced. If Nintex has a legal obligation to pay or collect Taxes for which Customer is responsible under this section, the appropriate amount will be invoiced to and paid by Customer, unless Customer provides Nintex with a valid tax exemption certificate authorized by the appropriate taxing authority.

4. CONFIDENTIALITY

4.1 Definition of Confidential Information. "Confidential Information" means all information disclosed by a party ("Disclosing Party") to the other party ("Receiving Party"), whether orally or in writing, in connection with this Service, that is designated as

confidential or that reasonably should be understood by the Receiving Party to be confidential given the nature of the information and the circumstances of disclosure. Nintex Confidential Information includes the Service and Documentation. Confidential Information of each party includes code, business and marketing plans, financial information, technology and technical information, inventions, know-how, product plans and designs, and business processes disclosed by such party. However, Confidential Information does not include any information that (i) is or becomes generally known to the public without breach of any obligation owed to the Disclosing Party, (ii) was known to the Receiving Party prior to its disclosure by the Disclosing Party without breach of any obligation owed to the Disclosing Party, (iii) is received from a third party without breach of any obligation owed to the Disclosing Party, or (iv) was independently developed by the Receiving Party.

4.2 Protection of Confidential Information. The Receiving Party will use the same degree of care that it uses to protect the confidentiality of its own confidential information of like kind (but not less than reasonable care) (i) not to use any Confidential Information of the Disclosing Party for any purpose outside the scope of this Agreement, and (ii) except as otherwise authorized by the Disclosing Party in writing, to limit access to Confidential Information of the Disclosing Party to those of its and its Affiliates' employees and contractors who need that access for purposes consistent with this Agreement and who have signed confidentiality agreements with the Receiving Party containing protections no less stringent than those herein.

4.3 Compelled Disclosure. The Receiving Party may disclose Confidential Information of the Disclosing Party to the extent compelled by law to do so, provided the Receiving Party gives the Disclosing Party prior notice of the compelled disclosure (to the extent legally permitted) and reasonable assistance, at the Disclosing Party's cost, if the Disclosing Party wishes to contest the disclosure. If the Receiving Party is compelled by law to disclose the Disclosing Party's Confidential Information as part of a civil proceeding to which the Disclosing Party is a party, and the Disclosing Party is not contesting the disclosure, the Disclosing Party will reimburse the Receiving Party for its reasonable cost of compiling and providing secure access to that Confidential Information.

4.4. No Intellectual Property Rights. THE RECEIVING PARTY ACQUIRES NO INTELLECTUAL PROPERTY RIGHTS FROM THE DISCLOSING PARTY UNDER THIS AGREEMENT, except for the restricted right to use disclosing Party's Confidential Information for the express, limited purposes described above.

5. LIMITATION OF LIABILITY.

5.1 NINTEX PROVIDES THE WORKFLOW SERVICE "AS IS", "WITH ALL FAULTS" AND "AS AVAILABLE". TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, NINTEX MAKE NO (AND SPECIFICALLY DISCLAIMS ALL) REPRESENTATIONS OR WARRANTIES OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY THAT THE SERVICE WILL BE UNINTERRUPTED, ERROR-FREE OR FREE OF HARMFUL COMPONENTS, THAT THE CONTENT WILL BE SECURE OR NOT OTHERWISE LOST OR DAMAGED, OR ANY IMPLIED WARRANTY OF MERCHANTABILITY, SATISFACTORY QUALITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT, AND ANY WARRANTY ARISING OUT OF ANY COURSE OF PERFORMANCE, COURSE OF DEALING OR USAGE OF TRADE. SOME JURISDICTIONS DO NOT ALLOW THE FOREGOING EXCLUSIONS. IN SUCH AN EVENT, SUCH EXCLUSION WILL NOT APPLY SOLELY TO THE EXTENT PROHIBITED BY APPLICABLE LAW. THE LIMITED WARRANTIES PROVIDED HEREIN ARE THE SOLE AND EXCLUSIVE WARRANTIES PROVIDED TO CUSTOMER IN CONNECTION WITH THE PROVISION OF THE SERVICE.

5.2 IN NO EVENT SHALL NINTEX'S LIABILITY FOR ANY CLAIM ARISING OUT OF OR RELATING TO THE SERVICE AND/OR THIS AGREEMENT AND/OR ANY OTHER AGREEMENT BETWEEN THE CUSTOMER AND NINTEX EXCEED THE TOTAL AMOUNT PAID BY CUSTOMER TO NINTEX TO USE THE SERVICE DURING THE TWELVE (12) MONTHS PRIOR TO THE DATE OF THE CLAIM. IN NO EVENT SHALL NINTEX BE LIABLE TO ANYONE FOR ANY INDIRECT, PUNITIVE, SPECIAL, EXEMPLARY, INCIDENTAL, CONSEQUENTIAL, OR OTHER DAMAGES OR COSTS OF ANY TYPE OR KIND (INCLUDING LOSS OF DATA, REVENUE, PROFITS, GOODWILL, USE, OR OTHER ECONOMIC ADVANTAGE) ARISING OUT OF, OR IN ANY WAY CONNECTED WITH THE SERVICE AND/OR THIS AGREEMENT, INCLUDING BUT NOT LIMITED TO THE USE OR INABILITY TO USE THE SERVICE, ANY INTERRUPTION, INACCURACY, ERROR OR OMISSION. THIS LIMITATION OF LIABILITY SECTION APPLIES WHETHER THE ALLEGED LIABILITY IS BASED ON CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY, OR ANY OTHER BASIS.

6. MUTUAL INDEMNIFICATION

6.1 Indemnification by Nintex. Nintex will defend, indemnify and hold Customer harmless against any loss, damage, or costs (including reasonable attorneys' fees) in connection with claims, demands, suits, or proceedings ("**Claims**") made or brought against Customer by a third party alleging that the use of the Service as contemplated hereunder infringes a copyright, a U.S. patent issued as of the

Effective Date, or a trademark of a third party; provided, however, that Customer: (a) promptly gives written notice of the Claim to Nintex; (b) gives Nintex sole control of the defense and settlement of the Claim (provided that Nintex may not settle any Claim unless it unconditionally releases Customer of all liability); and (c) provides to Nintex, at Nintex's cost, all reasonable assistance. Nintex will not be required to indemnify Customer in the event of: (w) modification of the Service by Customer, or Users in conflict with Customer's obligations or as a result of any prohibited activity as set forth herein; (x) use of the Service in a manner inconsistent with the Documentation; (y) use of the Service in combination with any other product or Service not provided by Nintex; or (z) use of the Service in a manner not otherwise contemplated by this Agreement. If Customer is enjoined from using the Service or Nintex reasonably believe it will be enjoined, Nintex will have the right, at its sole option, to obtain for Customer the right to continue use of the Service or to replace or modify the Service so that it is no longer infringing. If neither of the foregoing options is reasonably available to Nintex, then use of the Service may be terminated at the option of Nintex and Nintex's sole liability will be to refund any prepaid, but unused, Subscription Fees paid by Customer for such Service.

6.2 Indemnification by Customer. Customer will defend, indemnify, and hold Nintex harmless from any Claims made or brought by a third party: (i) based upon breach of this Agreement by Customer, its employees and Users resulting in the unauthorized disclosure of Confidential Information; (ii) alleging that the Customer data or business information infringes the rights of, or has caused harm to a third party; or (iii) in connection with a claim arising from use of the Service in breach of this Agreement by Customer or Users; provided, however, that Nintex: (a) promptly gives written notice of the Claim to Customer; (b) give Customer sole control of the defense and settlement of the Claim (provided that Customer may not settle any Claim unless it unconditionally releases Nintex of all liability); and (c) provides to Customer, at Customer cost, all reasonable assistance.

7. USAGE CERTIFICATIONS AND AUDIT RIGHTS

7.1 Usage Certifications. Upon written request, but not more frequently than once in any three month period, Customer shall furnish to Nintex a signed certification certifying the number of Employees and that Customer is using the Service pursuant to the terms of this Agreement and the applicable Order Form.

7.2 Nintex Audit Right. With reasonable prior notice of at least ten (10) days, Nintex may audit Customer's use of the Services. All such audits shall be conducted during regular business hours and no more frequently than twice in any twelve (12) month period and in a manner that does not unreasonably

interfere with Customer's business operations. Customer shall make available all such books, records, equipment, information and personnel, and provide all such cooperation and assistance, as may reasonably be requested by or on behalf of Nintex with respect to such audit. Customer shall be responsible for such audit costs and any additional fees only in the event the audit reveals that Customer's use of the Services exceeded the Employee Plan or any other limitations set forth in the applicable Order Form.

8. TERM AND TERMINATION

8.1 Term. This Agreement will commence on the Effective Date and continue for a period of twelve (12) months (the "Initial Subscription Term"), and will automatically renew at the end of the Initial Subscription Term (or any renewal term) for a period of one year (each, a "Renewal Subscription Term" and, together with the Initial Subscription Term, the "Subscription Term") unless either party provides written notice to the other of non-renewal at least thirty (30) days before the end of the Initial Subscription Term or any renewal term. Any such renewal will be at the list price in effect at the time of such renewal.

8.2 Termination. Either party may terminate this Agreement: (i) upon thirty (30) days prior written notice to the other party of a material breach by the other party if such breach remains uncured at the expiration of such notice period; or (ii) immediately in the event the other party becomes the subject of a petition in bankruptcy or any other proceeding relating to insolvency, receivership, liquidation, or assignment for the benefit of creditors.

8.3 Effect of Termination. Upon any termination of this Agreement, Customer must, as of the date of such termination, immediately cease accessing or otherwise utilizing the Service and Nintex Confidential Information. Termination for any reason will not relieve Customer of the obligation to pay any fees accrued or due and payable to Nintex prior to the effective date of termination. Upon termination for cause by Nintex, all future amounts due under all Order Forms will be accelerated and become due and payable immediately.

9. NINTEX DRAWLOOP DOCGEN® AND NINTEX DOCAUTOMATION

9.1. Nintex Drawloop DocGen® and Nintex DocAutomation. The Nintex Drawloop DocGen and Nintex DocAutomation Services are each provided as a managed package for the Customer's Salesforce Organization. Salesforce.com is a third-party service provider and Nintex makes no representations or warranties regarding the functionality, operability, or Customer's access to Salesforce.com. Customer's access to the Nintex Drawloop DocGen and Nintex

DocAutomation Services is subject to the availability of Customer's Salesforce Organization and proper performance of the Customer's obligations to Salesforce.com. Should Customer's access to its Salesforce Organization be suspended due to non-payment of any amounts owed to Salesforce.com by Customer or a breach of Customer's agreement with Salesforce.com, Customer's access to the its Nintex Drawloop DocGen or Nintex DocAutomation Service shall also be accordingly suspended or terminated. Nintex shall not be liable to Customer for any refund or damages arising out of such suspension or termination. Nintex shall not be liable for performance issues or downtime of the Nintex Drawloop DocGen or Nintex DocAutomation Service to the extent caused by Salesforce.com or other factors outside Nintex's control. Any unauthorized access to the Nintex Drawloop DocGen or Nintex DocAutomation Service or other abuse or impermissible activity in connection with the Nintex Drawloop DocGen or Nintex DocAutomation Service may result in immediate suspension or termination of Customer's access to the Nintex Drawloop DocGen or Nintex DocAutomation Service pursuant to Section 8 of the Agreement.

9.2 Customer Content. Customer's use of the Nintex Drawloop DocGen or Nintex DocAutomation Service may result in Customer directing transmission of Customer Content outside Customer's Salesforce Organization or other Workflow Environments, and/or to unaffiliated third parties or third-party applications, in each case as a result of Customer's configuration of the Service. Upon such transmission of Customer Content by Customer, Nintex shall not be responsible for the privacy, security or integrity thereof. Nintex will not use or disclose Customer Content except solely in connection with processing such data in the normal course of Customer's use of the Nintex Drawloop DocGen or Nintex DocAutomation Service as otherwise provided for in this Agreement or as required by law. Nintex shall not be responsible or liable for the failure to store, deletion, correction, destruction, damage, or loss of any Customer Content.

10. PROMAPP PROCESS MANAGEMENT SERVICE

10.1 Promapp Process Management Solution. Customers who purchase a subscription to the Promapp Process Management Solution, a hosted central repository for managing business process information (the "Promapp Service") are bound by the terms in this Agreement, the applicable Order Form, and the Nintex Customer Use Policy.

10.2. Calculations. Nintex does not warrant the accuracy, correctness, reliability, and completeness of any formulae, or calculation available within the Promapp Service ("Calculations"). Customer acknowledges that the results from such Calculations are for informational purposes only, and that the assumptions used and figures generated are for purposes of illustration and reference only, and are

subject to change depending on a variety of factors, which may not have been taken into account in the computation.

9. GENERAL PROVISIONS

9.1. Export Compliance.

The Service and other technology Nintex makes available, and derivatives thereof, may be subject to export control and economic sanctions laws and regulations of the United States and the import laws and regulations of foreign governments. Each party represents that it is not named on any U.S. government denied-party list. Customer agrees that: (a) all use, exports, and imports related to this Agreement will be in compliance with these laws and regulations and (b) Customer shall not allow any third party to export, re-export, or transfer any part of the Service in violation of these laws and regulations. The foregoing obligations include but are not limited to Customer or a third party exporting, transferring, or importing the Service to: (i) to any country subject to export control embargo or economic sanctions implemented by any agency of the U.S. or foreign governments; (ii) to any person or entity on any of the U.S. Government's Lists of Parties of Concern (<http://www.bis.doc.gov/index.php/policy-guidance/lists-of-parties-of-concern>) or applicable international specially-designated parties or economic sanctions programs; (iii) to any end-user or for any known end-use related to the proliferation of nuclear, chemical or biological weapons or missiles, without first obtaining any export license or other approval that may be required by any U.S. Government agency having jurisdiction with respect to the transaction; or (iv) otherwise in violation of any export or import laws, regulations or requirements of any United States or foreign agency or authority.

9.2 Entire Agreement. This Agreement and the Order Form(s) constitute the entire agreement between Customer and Nintex regarding the Service and supersede all prior and contemporaneous agreements, proposals or representations, written or oral, concerning its subject matter. No modification, amendment, or waiver of any provision of this Agreement will be effective unless in writing and signed by the party against whom the modification, amendment or waiver is to be asserted. No provision of any purchase order or other business form employed by Customer, including any electronic invoicing portals and vendor registration processes, will supersede the terms and conditions of this Agreement, and any such document relating to this Agreement shall be for administrative purposes only and shall have no legal effect.

9.3 Assignment. Neither party may assign any of its rights or obligations hereunder, whether by operation of law or otherwise, without the other party's prior written consent (not to be unreasonably withheld). Subject to the foregoing, this Agreement will bind and

inure to the benefit of the parties, their respective successors and permitted assigns.

9.4 Relationship of the Parties. The parties are independent contractors. This Agreement does not create a partnership, franchise, joint venture, agency, fiduciary, or employment relationship between the parties.

9.5 Waiver. No failure or delay by either party in exercising any right under this Agreement will constitute a waiver of that right.

9.6 Severability. If any provision of this Agreement is held by a court of competent jurisdiction to be contrary to law, the provision will be deemed null and void, and the remaining provisions of this Agreement will remain in effect.

9.7 Force Majeure. Neither party will be liable for any failure or delay in performance under this Agreement (other than for delay in the payment of money due and payable hereunder) for causes beyond that party's reasonable control and occurring without that party's fault or negligence, including, but not limited to, acts of God, acts of government, flood, fire, civil unrest, acts of terror, strikes or other labor problems (other than those involving Nintex or Customer employees, respectively), computer attacks or Harmful acts, such as attacks on or through the Internet, any Internet service provider, telecommunications or hosting facility. Dates by which performance obligations are scheduled to be met will be extended for a period of time equal to the time lost due to any delay so caused.

9.8 Choice of Law and Jurisdiction. Excluding conflict of laws rules, this Agreement shall be governed by and construed under (a) the laws of the State of Washington, U.S. if Customer is located in North or South America, (b) the laws of the state of Victoria, Australia if Customer is located in Asia or Australia, or (c) the laws of England and Wales if Customer is located outside of North or South America, Asia and Australia. All disputes arising out of or in relation to this Agreement shall be submitted to the exclusive jurisdiction of the courts of (i) Seattle, Washington when the laws of Washington apply, (ii) Melbourne when the laws of the State of Victoria, Australia apply, or (iii) London when the laws of England and Wales apply. Nothing in this section shall restrict Nintex's right to bring an action (including for example a motion for injunctive relief) against Customer in the jurisdiction where Customer's place of business is located. The United Nations Convention on Contracts for the International Sale of Goods and the Uniform Computer Information Transactions Act, as currently enacted by any jurisdiction or as may be codified or amended from time to time by any jurisdiction, do not apply to this Agreement.

10. DEFINITIONS

"Affiliate" means any entity that directly or indirectly controls, is controlled by, or is under common control with the subject entity. "Control," for purposes of this definition, means direct or indirect ownership or control of more than 50% of the voting interests of the subject entity.

"Connected Service" means any cloud service or external application that is called by a Customer's Workflow using a Nintex Connector.

"Customer" means the entity listed in the Order Form, and unless specifically set forth in the Order Form, shall not include any: (i) Affiliate of the Customer; (ii) business unit, department, branch office, or other operations, including any acquired by or otherwise combined with Customer; or (iii) entity which acquires or combines with Customer, by way of merger, business combination, operation of law, or other transaction.

"Customer Content" means the business information or other data used by Customer in connection with the Service.

"Documentation" means Nintex's online user guides, documentation, help and training materials, and the Customer Use Policy, as updated from time to time, accessible via <https://community.nintex.com>, <https://nintex.com/company/legal>, or login to the applicable Service.

"Employee" means, solely for the purposes of this Agreement, any employee of the Customer, including part-time and seasonal employees, and individual independent contractors employed by the Customer.

"Employee Plan" means the number of Employees licensed for access to the Service, as set forth in the Order Form. The Employee Plan is determined by the total number of Customer's Employees unless otherwise set forth in the Order Form.

"Harmful Code" means code, files, scripts, agents or programs intended to do harm, including, for example, viruses, worms, time bombs and Trojan horses.

"Intellectual Property Rights" means any and all common law, statutory and other industrial property rights and intellectual property rights, including copyrights, trademarks, trade secrets, patents and other proprietary rights issued, honored or enforceable under any applicable laws anywhere in the world, and all moral rights related thereto.

"Order Form" means the Nintex Order Form for the Service executed by Customer.

"Salesforce Organization" means the virtual space provided to an individual Customer of Salesforce.com.

"Service" means the products and services purchased by Customer pursuant to the Order Form(s) and made available by Nintex subject to this Agreement.

"Subscription Term" means the set term designated herein or in the applicable Order Form.

"Support" means the support, assurance, new releases and related maintenance services for the Workflow Service described in the Support Documentation and includes the Support Documentation and all other associated Material provided by Nintex in relation to that support. "Material" means material in any form, including online, including documents, reports, products, information, data, source code, and methodologies.

"Support Documentation" means any documentation provided by Nintex that is incorporated in or associated with Support.

"Users" means the Employees who are authorized by Customer to have access to the Workflow Service.

"Workflow Environment" means the environment in which Customer deploys the Service, including, but not limited to, Microsoft Office 365 and Salesforce.com.